

STATE OF VERMONT  
GREEN MOUNTAIN CARE BOARD

In re: Development of 19-Bed Therapeutic )	
Community Residence in Vergennes for )	Docket No. GMCB 004-17con
Women with Alcohol and Chemical Dependencies )	
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_____ )	

**DECISION, ORDER, AND EMERGENCY CERTIFICATE OF NEED**

Introduction

On March 2, 2017, the Green Mountain Care Board received a Letter of Intent and Request for Emergency Review from OAS, LLC, regarding the development of a 19-bed Therapeutic Community Residence (TCR) for women with alcohol and chemical dependencies. The emergent circumstance supporting the application is the sudden closure of Maple Leaf Farm, a 41-bed inpatient drug treatment facility that had accounted for thirty percent of the state's inpatient drug treatment beds. The Board granted emergency review of the project pursuant to 18 V.S.A. § 9440 and GMCB Rule 4.000, § 4.303 on March 8, 2017.

On March 16, 2017, the applicant's operating officer and attorney Shireen Hart, Esq. appeared before the Board to discuss the circumstances warranting emergency review and approval of the project. Barbara Cimaglio, Deputy Commissioner of the Vermont Department of Health appeared by telephone and spoke in support of the project. On April 11, 2017, the Applicant filed its Certificate of Need (CON) application. On April 12, 2017, the applicant filed revised Attachments 1-18.

For the reasons outlined below and subject to the conditions contained herein, we approve the application.

Jurisdiction

The Board has jurisdiction over this matter because the annual operating expenses of the project, a health care facility as defined in 18 V.S.A. § 9434(8), will exceed \$500,000 annually for at least one of the next two budgeted years. 18 V.S.A. § 9434(a)(5).

Findings of Fact

1. The applicant seeks to develop a 19-bed inpatient alcohol and chemical dependency treatment facility for women 18 years and older in Vergennes. The facility, d/b/a Valley Vista Vergennes, will be located on the premises of a former nursing home, and will be licensed with the state as a Therapeutic Community Residence.

2. The applicant currently owns and operates Valley Vista Bradford, an 80-bed facility that is one of the two remaining inpatient alcohol and chemical dependency treatment facilities in the

state. The other such inpatient treatment facility, Serenity House in Wallingford, has 24 beds. Application (App.) at 1.

3. The Deputy Commissioner of ADAP approached Valley Vista to determine whether it could help fill the void created by the abrupt closure of Maple Leaf Farm. App. at 1-2. The applicant determined it could utilize the premises in Vergennes, owned by affiliated company Vergennes Healthcare, LLC, to develop a new 19-bed inpatient facility. App. at 1-2.

4. As proposed, the project will be an additional inpatient unit of Valley Vista Bradford, a facility which has a proven track record as an inpatient alcohol and chemical dependency treatment facility. Onsite clinical administration will be provided by a clinical director for all clinical, nursing and administrative functions supervised by Valley Vista Bradford management. A Program Director and Assistant Director of Nursing will be onsite in Vergennes. The direct staff-to-patient ratio will be approximately 1-to-1. App. at 2.

5. The program in Vergennes will mirror the women's program at Valley Vista Bradford. The range of services offered by the applicant will include specialized opiate addiction and psychiatric services, individual counseling, detoxification, family engagement, stress management, anger management and recovery meetings. The program is individualized and allows for a variable length of stay up to ninety days. App. at 2-3.

6. The applicant will achieve significant administrative and programmatic efficiencies through developing the Vergennes facility as an extension of Valley Vista Bradford, which has operated successfully for thirteen years. All admissions and supervision of clinical, nursing, and administrative functions will be supervised by Valley Vista Bradford management. The Vergennes facility will use the same electronic medical record (Celerity) used by the Bradford site and the same policies and procedures. App. 2-4.

7. The Vergennes facility is in near move-in condition and will not require a large capital expenditure for completion. The applicant expects that the changes will only include the addition of a bathroom, replacement of flooring in several rooms, installation of a camera system in the hallways and a buzzer system for the entrance. App. at 2.

8. The City of Vergennes has approved the space for the 19-bed facility to be licensed as a TCR. App. at 2. The Vermont Division of Alcohol & Drug Abuse Programs has confirmed the critical need for additional inpatient treatment services resulting from the closing of Maple Leaf Farm. Letter from Barbara Cimaglio, (March 8, 2017), App. at Tab 1.

9. The applicant will not need to borrow the funds to finance the project, but will use \$207,000 in equity through current operations in Bradford. App. at 5; Revised Tab 18, Table 2.

10. The applicant has provided financial projections for 2017 and 2018 based on the successful woman's program at Valley Vista Bradford. Its preliminary financial statements show sufficient profit to finance the proposed expansion in Vergennes and to fund any losses or contingencies that may occur. App. at 5-6.

11. The Department of Health has confirmed that the staffing model, FTEs, per diem Medicaid/ADAP rate and quarterly payments for the uninsured for 2017, as shown in the application, have been agreed to by the State.

### Conclusions of Law

With the closing of Maple Leaf Farm, the State has lost one of three facilities, and almost a third of the inpatient beds, that are critically needed to help Vermonters who are struggling with drug and alcohol addiction. The applicant, operator of one of the remaining two facilities, has submitted a cogent plan to expand its services that is supported by the Vermont Department of Health, that can be quickly operationalized, but is dependent upon CON approval. Based on our review of the application and these compelling factual circumstances, we approve the application.

Vermont law outlines eight statutory criteria that must be met by the applicant before a CON will issue. First, the application must be consistent with the Health Resource Allocation Plan (HRAP) which identifies needs in Vermont's health care system, resources to address those needs, and priorities for addressing them on a statewide basis. 18 V.S.A. § 9437(1). We find that this project is consistent with the relevant HRAP standards and that the applicant has therefore satisfied the first criterion. *See* HRAP Standard 4.4 (application should explain how project is consistent with the Vermont Department of Health's recommendations concerning effective substance abuse treatment); *see also* Letter from Barbara Cimaglio, (March 8, 2017), App. at Tab 1.

We also conclude that the applicant has satisfied the second criterion requiring that the cost of the project is reasonable and can be sustained by the applicant, that the project will not increase costs of care, and that less expensive alternatives are not available or appropriate. *See* 18 V.S.A. § 9437(2). The project's cost is reasonable; an affiliated company already owns the property which is in near move-in condition, and thus requires minimal capital investment. Finding of Fact (Finding) ¶ 7. Because the facility is an extension of Valley Vista Bradford, there will be significant administrative and programmatic efficiencies, including the use of the same electronic medical record and identical policies and procedures. Finding ¶ 6. Moreover, the applicant will not incur additional debt to begin operations and the project will be funded through the operations of the Bradford facility. Findings ¶¶ 9, 10, 11.

In addition, we conclude that there is no alternative or appropriate facility that can or will, in a timely fashion, provide these crucially needed services. There is an undeniable shortage of inpatient treatment beds as a result of the closure of Maple Leaf Farm.<sup>1</sup> The applicant is poised to begin operations almost immediately, and has a proven track record as one of the few treatment facilities of its kind in the State. Findings ¶¶ 2,4,5. We therefore conclude that the applicant has met the second criterion.

We also conclude that the applicant has met the third criterion under which it must demonstrate that there is an "identifiable, existing, or reasonably anticipated need" for the project. 18 V.S.A. § 9437(3). Vermont, like many other states, is experiencing a health crisis stemming from alcohol and substance abuse and addiction. According to the Vermont

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<sup>1</sup> Serenity House in Wallingford is expected to add ten treatment beds.

Department of Health, Vermont has one of the highest percentages of illicit drug abuse nationwide. See <http://healthvermont.gov/alcohol-drugs/by-substance> (Health Department website with links to supporting data and reports). The unexpected closure of Maple Leaf Farm, resulting in the loss of nearly one-third of the available treatment beds in the State, hampers the State's ability to provide suitable treatment for Vermonters struggling with alcohol and/or substance abuse and addiction. Finding ¶ 3. Accordingly, we easily find that the applicant has satisfied this criterion.

Next, the applicant has met the fourth criterion by demonstrating that the project will improve the quality of, and access to, health care in the State. 18 V.S.A. § 9437(4) (project must improve the quality of health care or provide greater access for Vermonters, or both). Because the applicant can open this facility within a short time frame, there is minimal interruption in services for those Vermonters requiring inpatient care for alcohol and substance abuse treatment. Findings ¶¶ 3,4,5,7. Access is also increased; were it not for this project, the State would not recoup some of the treatment beds that were lost when Maple Leaf Farm abruptly closed.

The applicant has likewise satisfied the fifth criterion. See 18 V.S.A. § 9437 (5) (project cannot have undue adverse impact on other services provided by applicant). Although Valley Vista offers these same services at another location, it will be able to jointly operate the two facilities without any detriment to its Bradford location. Further, the new facility will benefit from some shared administrative and operational functions and oversight, which should reduce per-resident costs. Finding ¶¶ 6, 10.

The sixth statutory criterion, that the project serves the public good, has been met for reasons already discussed. We also accept that there is adequate consideration of the availability of transportation, satisfying the seventh criterion; the services are inpatient, rather than outpatient, and other treatment programs (Maple Leaf Farm, Serenity House, and Valley Vista Bradford) are or were similarly located in rural Vermont. See 18 V.S.A. §9437(7) (applicant must consider availability of transportation services). The final criterion pertains to new health care technology, and is not applicable to this project.<sup>2</sup>

Based on the above, we approve the Applicant's request for a Certificate of Need subject to the conditions outlined in ¶ 2 A-I, below.

### CERTIFICATE OF NEED

#### Conditions:

1. The Certificate of Need shall be subject to the following terms and conditions:
  - A. The applicant shall comply with the scope of the project as described in the application and other materials it has submitted to the Board relevant to this project. This Certificate of Need is limited to the project and activities described therein.

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<sup>2</sup> See 18 V.S.A. §9437(8) (applications for the purchase of new health care IT must conform with Vermont's Health Information Technology plan).

- B. The project as described in the application shall be fully implemented within ninety (90) days of the date of this Certificate of Need or the Certificate of Need shall become invalid and deemed revoked.
- C. Noncompliance with any provision of this Certificate of Need or applicable ordinances, rules, laws and regulations shall constitute a violation of this Certificate of Need and may be cause for enforcement action pursuant to 18 V.S.A. §§ 9445, 9374(i), and any other applicable law.
- D. This Certificate of Need is not transferable or assignable and is issued only for the premises and entity named in the application.
- E. If the applicant contemplates or becomes aware of a potential or actual nonmaterial change, as defined in 18 V.S.A. § 9432(12), or a material change as defined in 18 V.S.A. § 9432(11), to the scope or cost of the project described in its application and as designated in this Certificate of Need, it shall file a notice of such change immediately with the Board. The Board shall review the proposed change and advise the applicant whether the proposed change is subject to review.
- F. The applicant shall file two implementation reports with the Board at three-month intervals, the first of which shall be filed three months after the date of this Certificate of Need. The implementation reports shall include information and analysis demonstrating that the project is in conformance with its scope as described in the application, and must identify any changes to the financing of the project.
- G. The Board may, after notice and an opportunity for the applicant to be heard, make such further orders as are necessary or desirable to accomplish the purposes of this Certificate of Need, and to ensure compliance with the terms and conditions of this Certificate of Need.
- H. All reports, notices, forms, information or submissions of any kind required to be submitted to the Board as a condition of this Certificate of Need shall be signed by the Applicant and verified by the chief executive officer, or by his or her designated representative.
- I. The conditions and requirements contained in this Certificate of Need shall remain in effect for the duration of the reporting period defined in paragraph F, above.

**SO ORDERED.**

Dated: April 17, 2017 at Montpelier, Vermont

s/ Cornelius Hogan )  
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s/ Jessica Holmes )  
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s/ Robin Lunge )  
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GREEN MOUNTAIN  
CARE BOARD  
OF VERMONT

Filed: April 17, 2017